IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3344 of 2007()

C.C.76/06 OF J.F.C.M, THIRUVALLA

PETITIONER: ACCUSED

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1. PHILIP WILLIAM, KOVOOR HOUSE,
   PUNNAKKUNNAM MURY, KUTTAPPUZHA VILLAGE.

2. RAMANI WILLIAM, -DO-

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR

RESPONDENTS: COMPLAINANT & STATE

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1. ANJANA, KODIYATTU HOUSE,
   PUNNAKKUNNAM MURI, KUTTAPPUZHA VILLAGE.

2. THE STATE OF KERALA, REPRESENTED BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3344 of 2007

Dated this the 2nd day of November, 2007

O R D E R

Petitioners face indictment in a prosecution for the offence punishable under Section 420 r/w 34 I.P.C. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. On coming to know of the pendency of the proceedings against them, the petitioners had appeared before the learned Magistrate and sought advancement of hearing. That prayer was rejected by the learned Magistrate. The petitioners have hence not been able to appear and seek bail. The petitioners are not available in India. They are abroad at U.K. The short prayer made by the petitioners' counsel at the time of hearing is that the petitioners may be permitted now to appear through counsel and advance their plea of discharge under Section 239 Cr.P.C. In the peculiar facts and circumstances of this case, the said request may be accepted, prays the learned counsel for the petitioners.

2. Having heard the learned counsel for the petitioners and having perused the records, I am satisfied that the said prayer can be allowed.

3. In the result, this Crl.M.C is allowed in part. The following direction are issued.

i) The petitioners shall be permitted to appear before the learned Magistrate through counsel and advance their plea of discharge;

ii) The learned Magistrate shall consider such plea of discharge and take appropriate decision in the matter;

ii) Only if the learned Magistrate comes to the conclusion that charges are liable to be framed against the petitioners, shall personal presence of the petitioners be insisted. Until then, the warrants of arrest issued against the petitioners shall not be executed and the petitioners shall be permitted to appear through their counsel.

(R.BASANT, JUDGE)

rtr/-